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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

PACIFIC COAST FEDERATION OF
FISHERMEN'S ASSOCIATIONS, *et al.*,

Plaintiffs,

v.

GINA RAIMONDO, in her official
capacity as Secretary of Commerce, *et al.*,

Defendants.

Case No. 1:20-cv-00431-DAD-EPG

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION FOR 2022**

1 Upon careful consideration of the Motion for Preliminary Injunction for 2022 (“Motion for
2 Preliminary Injunction”) filed by plaintiffs Pacific Coast Federation of Fishermen’s Associations,
3 Institute for Fisheries Resources, Golden State Salmon Association, Natural Resources Defense
4 Council, Inc., Defenders of Wildlife, and Bay.Org d/b/a The Bay Institute (collectively,
5 “Plaintiffs”), the parties’ briefing and argument regarding that motion, the evidentiary record, and
6 the applicable statutory and case law, and finding good cause shown, Plaintiffs’ Motion for
7 Preliminary Injunction is GRANTED.

8 IT IS HEREBY ORDERED that Defendant U.S. Bureau of Reclamation (“Reclamation”),
9 its officers, agents, servants, employees and attorneys, and those in active concert or participation
10 with Reclamation, are hereby preliminarily enjoined, from the effective date of this order through
11 and including October 31, 2022, pursuant to Federal Rule of Civil Procedure 65, from operating the
12 Central Valley Project in the manner described in the Final Biological Assessment for Reinitiation
13 of Consultation on the Coordinated Long-Term Operation of the Central Valley Project and State
14 Water Project issued by Reclamation on October 17, 2019, the Final Biological Opinion on Long
15 Term Operation of the Central Valley Project and State Water Project issued by the National
16 Marine Fisheries Service (“NMFS”) on October 21, 2019, the Final Biological Opinion for the
17 Reinitiation of Consultation on the Coordinated Operations of the Central Valley Project and State
18 Water Project issued by the U.S. Fish and Wildlife Service (“FWS”) on October 21, 2019, and the
19 Final Environmental Impact Statement on the Reinitiation of Consultation on the Coordinated
20 Long-Term Operation of the Central Valley Project and State Water Project, to the extent that such
21 operation is inconsistent with the following requirements:

- 22 (1) Reasonable and Prudent Alternative Action IV.2.1, as set forth in the Biological
23 Opinion and Conference Opinion on the Long-Term Operations of the Central Valley
24 Project and State Water Project issued by NMFS on June 4, 2009 (at pages 642–44 of
25 that opinion);
- 26 (2) Reasonable and Prudent Alternative Action IV.2.3, as set forth in the Biological
27 Opinion and Conference Opinion on the Long-Term Operations of the Central Valley
28 Project and State Water Project issued by NMFS on June 4, 2009, including but not

1 limited to the prohibition on Old and Middle River flows more negative than -5,000
2 cubic feet per second on a fourteen-day running average (at pages 648–51 of that
3 opinion);

4 (3) Daily Old and Middle River flows shall be zero or positive for seven consecutive days
5 following the salvage of one or more Delta Smelt by the Central Valley Project or State
6 Water Project;

7 (4) Shasta storage and temperature requirements by water year type:

8 a. All of the following requirements shall apply if 2022 is classified as a Critically
9 Dry year:

- 10 i. Water storage in Shasta Reservoir shall be equal to or greater than 3.5
11 million acre-feet on April 30, 2022;
- 12 ii. Water storage in Shasta Reservoir shall be equal to or greater than 1.9
13 million acre-feet on September 30, 2022;
- 14 iii. Maximum daily average water temperatures shall be 54.5° Fahrenheit in
15 the Sacramento River at the Clear Creek gauge from the date that
16 initiation of spawning of winter-run Chinook salmon is observed or May
17 15, 2022, whichever is earlier, until October 31, 2022; and
- 18 iv. Maximum temperature-dependent mortality of winter-run Chinook
19 salmon shall be 30%;

20 b. All of the following requirements shall apply if 2022 is classified as a Dry year:

- 21 i. Water storage in Shasta Reservoir shall be equal to or greater than 3.5
22 million acre-feet on April 30, 2022;
- 23 ii. Water storage in Shasta Reservoir shall be equal to or greater than 2.2
24 million acre-feet on September 30, 2022; and
- 25 iii. Maximum daily average water temperatures shall be 53.5° Fahrenheit in
26 the Sacramento River at the Clear Creek gauge from the date that
27 initiation of spawning of winter-run Chinook salmon is observed or May
28 15, 2022, whichever is earlier, until October 31, 2022;

1 c. The seven-day average of daily maximum temperatures shall be less than 61°
2 Fahrenheit (16.1°C) in the Sacramento River at the Jelly's Ferry gauge from
3 March 1 to May 15, 2022, or the date that initiation of spawning of winter-run
4 Chinook salmon is observed, whichever is earlier; and

5 (5) The provisions of the State Water Resources Control Board's Water Rights Decision
6 1641 applicable to the State Water Project and Central Valley Project, including
7 requirements relating to Delta inflows, Delta outflow, X2, and closures of the Delta
8 Cross Channel Gates.

9 IT IS FURTHER ORDERED that Reclamation, its officers, agents, servants, employees
10 and attorneys, and those in active concert or participation with Reclamation, shall curtail all water
11 deliveries to, water supply allocations for, and water diversions by all contractors of the Central
12 Valley Project and State Water Project, including settlement and exchange contractors, as
13 necessary to achieve requirements (4) and (5) above, except for: (a) water deliveries necessary for
14 human health and safety, as defined in section 878.1 of title 23 of the California Code of
15 Regulations; and (b) water deliveries to wildlife refuges (Level 2) as required by section 3406(d) of
16 Public Law 102-575. Reclamation may move for relief from requirements (4) and (5) if, despite
17 curtailing water deliveries to the contractors of the Central Valley Project and State Water Project
18 as required herein, it is unable to meet requirements (4) or (5), as set forth above. Prior to moving
19 for relief from this Court, Reclamation shall meet and confer with Plaintiffs and other parties and
20 provide modeling and information regarding water deliveries and operations sufficient to
21 demonstrate that it is impossible to meet these requirements despite curtailing water deliveries.

22 IT IS FURTHER ORDERED that the authorization for incidental take resulting from
23 coordinated operations of the Central Valley Project and State Water Project in the 2019 Biological
24 Opinions issued by FWS and NMFS is VACATED to the extent that the coordinated operations of
25 the Central Valley Project and State Water Project violate the terms of this Order.

26 IT IS FURTHER ORDERED that Reclamation shall promptly meet and confer with all
27 Parties if 2022 is classified as a water year type other than Dry or Critically Dry, as the
28 requirements of this injunction are narrowly tailored to address the irreparable harm likely to result

1 from the coordinated operations of the Central Valley Project and State Water Project in a Dry or
2 Critically Dry water year type.

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4 IT IS SO ORDERED.

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6 Dated: _____

7 Hon. Dale A. Drozd,
8 United States District Judge
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